

Lowell Zoning Board of Appeals Minutes

December 12, 2022 at 6:30 P.M.

Note: These minutes are not completed verbatim. For further detail, contact the Division of Development Services, 375 Merrimack Street, Lowell, MA or refer to video recordings available online at www.LTC.org.

Members Present: Chairman Pech, Vice Chair Callahan, Member Briere, Member Procope, Member Hovey

Members Absent: Member McCarthy

Others Present: Dylan Ricker, Associate Planner

The following represents the actions taken by the Zoning Board of Appeals at the 11/28/2022 meeting. This meeting was held in the City Council chambers. However, due to the COVID-19 pandemic, attendees had the ability to participate via Zoom as permitted by the Governor's 3/10/2020 emergency order to suspend certain provisions of the Open Meeting Law.

Chairman Pech called the meeting to order at 6:30 PM

I. Continued Business

II. New Business

ZBA-2022-58

Petition Type: **Variance**

Applicant: **Thy Luong**

Property Located at: **359 Walker Street, 01851**

Applicable Zoning Bylaws: **Section 5.1**

Petition: **Thy Luong has applied to the Zoning Board of Appeals to convert the existing single-family home into a two-family home. The subject property is located in the Traditional Two-Family (TTF) zoning district. The proposal requires Variance approval pursuant Section 5.1 for relief from the minimum lot area per dwelling unit, and minimum frontage requirements, and any other relief required under the Lowell Zoning Ordinance.**

On Behalf:

Vimean Pen, Applicant

V. Pen said they are seeking to convert the existing single-family home into a two-family home because they have a large family.

Speaking in Favor:

None

Speaking in Opposition:

Darlene Dixon, 125 Grove Street

D. Dixon said she is a rear abutter to 359 Walker Street. D. Dixon said her concern is that there will be traffic congestion on Walker Street. D. Dixon expressed concern about double parking on the street, and said the lot is too small for a two-family. D. Dixon said she has a concern about the applicant not taking care of the property and not disposing of construction material in a timely manner. D. Dixon said she was upset that the homeowner would not remove a tree branch that overhung over her property.

Discussion:

T. Hovey asked if the work has been completed already. V. Pen said it has not. T. Hovey cited the Building Commissioner's comments regarding the applicant completing work. V. Pen said the work has not been done yet. T. Hovey said that in 2019 work was done without a permit. V. Pen said he was not familiar with that.

V. Pen said they have not done the proposed work yet.

M. Briere cited the Building Commissioner's comments which stated that work was done without permits at the property, and expressed concern about this. M. Briere asked why the applicant did not apply for permits previously. V. Pen said he does not know what happened, and said this application is separate from the previous work. M. Briere quoted the Building Commissioner's comments.

M. Briere asked how many bedrooms are in the building. V. Pen said there are 3 bedrooms on each floor and there is space in the attic. M. Briere asked how many bedrooms would be in each unit. V. Pen said there would be 3 bedrooms in each unit. V. Pen said he can provide at least 4 stacked parking spaces. M. Briere said he does not know that he can deny the Variance, but he would like to. V. Pen said the mistake happened before and now he is taking over the project to ensure it is done professionally.

G. Procope asked if the house was habitable during previous construction. V. Pen said no, and said no one is living there now. G. Procope noted the Commissioner's comments that there were ACs in the building. G. Procope asked if V. Pen was doing the working in 2019. V. Pen said he was not working on the project previously, and they are trying to correct the issues.

G. Procope asked about the parking plan. V. Pen said there are 4 parking spaces with 2 of the spaces being tandem parking spaces. G. Procope asked if the applicant is keeping the garage. V. Pen said they will keep the garage and would park 3 cars in the garage. G. Procope asked if the applicant intends to

use street parking. V. Pen said no. G. Procope said he is not sure they can deny this, but they have concerns about the previous work and the abutter's concerns.

G. Procope said the plan looks good to him, but said consulting with neighbors would be beneficial to work out concerns.

S. Callahan noted the front porch was enclosed, and now this is to be turned into another entry way for the units. S. Callahan said looking at the existing floor plan and the proposed it appears that it is already being used as a two-family. V. Pen noted that they will not be expanding the footprint. S. Callahan asked about the second floor sink, V. Pen said it was there when they purchased the property. S. Callahan said he also had concerns based on the Building Commissioner's comments. S. Callahan explained the relief requested, and said he believes the applicant meets the criteria for a Variance. S. Callahan said converting the property to a two-family seems reasonable. S. Callahan noted the applicant will need to resolve the issues with the Building Department.

S. Callahan noted the requested conditions from the Building Commissioner, V. Pen said he was amenable to these conditions.

V. Pech said the previous work is concern, V. Pen said he was not involved. V. Pech said the work meets the criteria for a Variance, and the relief sought is reasonable. V. Pech noted work will have to be pre-inspected by the Building Department.

Motion:

S. Callahan motioned to approve the Variance with the following condition:

- (1) The applicant shall remove all wall board hung since 2019 per Building Department approval; and
- (2) The applicant shall have a pre-inspection completed by the Building Department.

G. Procope seconded the motion. The motion passed unanimously, (5-0).

ZBA-2022-61

Petition Type: **Special Permit**

Applicant: **Julia Silva**

Property Located at: **11 Mill Street, 01852**

Applicable Zoning Bylaws: **Article 12.4 (I)**

Petition: Julia Silva has applied to the Zoning Board of Appeals seeking to add micro-blading services to the existing salon. The subject property is located in the Traditional Mixed-Use (TMU) zoning district. The proposal requires Special Permit approval pursuant Article 12.4 (I) for a body art establishment.

On Behalf:

Julia Silva, Applicant

J. Silva said her salon business is moving from 19 Mill Street to 11 Mill Street. J. Silva said she is a licensed aesthetician and she is seeking approval to add a micro blading service to the 11 Mill Street location.

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

M. Briere noted the salon is legal by-right and there is adequate parking, and said as long as the applicant is in agreeance with the Board of Health to get approvals, he is in support.

G. Procope agreed with M. Briere and said he does not have concerns about the proposal. J. Silva explained what micro blading is to the Board members.

S. Callahan expressed support.

T. Hovey noted the differences between micro blading and tattooing. T. Hovey asked if there was only 1 micro blading station. J. Silva confirmed this and said there would be one room specially prepared for micro blading. T. Hovey asked about session lengths. J. Silva said it is about 1 hour but there is adequate parking. T. Hovey expressed support.

V. Pech expressed support for the project.

Motion:

S. Callahan motioned, and G. Procope seconded the motion to approve the Special Permit. The motion passed unanimously, (5-0).

ZBA-2022-62

Petition Type: **Variance**

Applicant: **The Dorothy Cleary Revocable Trust**

Property Located at: **14 Newell Street, 01851**

Applicable Zoning Bylaws: **Section 5.1**

Petition: **The Dorothy Cleary Revocable Trust has applied to the Zoning Board of Appeals seeking approval to construct a new single-family home at 14 Newell Street. The subject property is located in the Traditional Two-Family (TTF) zoning district. The proposal requires Variance approval pursuant Section 5.1 for relief from the minimum lot size, minimum frontage, minimum side yard setback, and minimum lot area per dwelling unit requirements, and any other relief required under the Lowell Zoning Ordinance.**

On Behalf:

John Geary, Applicant's Representative

J. Geary introduced the applicant. J. Geary said the property is currently a vacant lot in the TTF zone. J. Geary said the applicant proposes to construct a 3 bedroom, 1.5 bathroom home with an attached garage and driveway for parking. J. Geary said the street is a dead-end street consisting of primarily single-family homes, and said the area has a variety of single-family, multi-family, and businesses. J. Geary said he provided a plan with nearby properties of a similar size. J. Geary said the proposal is designed to complement the existing neighborhood. J. Geary said the proposal, if approved would have a positive impact on the housing crisis in the City. J. Geary said the proposal meets Variance criteria due to the size of the lot. J. Geary said when the neighborhood was initially laid out most lots were smaller than the zoning ordinance requires now. J. Geary said the plan aligns with the City's Master Plan. J. Geary said the proposal would not have a negative effect on the neighborhood and fits in with the existing properties in the area.

J. Geary noted letters of support submitted for abutters to the project.

Matt Hamor, Applicant's Engineer

M. Hamor explained the proposed site plan for the property. M. Hamor noted the plan provides 2 off-street parking spaces and there is adequate usable open space. M. Hamor said the property will have adequate drainage. M. Hamor said the owner is proposing to do a solid white fence along the property line and adding trees to the property including balsam firs to screen the property from neighbors. M. Hamor explained the proposed architectural and floor plans for the home.

Speaking in Favor:

Rae Santos, 26 Newell Street

R. Santos said she has lived in her home for over 30 years and has no issues with another home. R. Santos said there is no parking issues and noted the four-family on the corner has 8 parking spaces. R. Santos said there are no water problems at the site. R. Santos said the proposed house is a nice home and there are many neighbors that signed in support of the project.

Nancy Judge, 28 Foch Street

N. Judge said she is co-chair of the Highlands Neighborhood Association. N. Judge said she reviewed the project before committing to speak in favor. N. Judge said she reviewed the plans and property and noted there was not a parking issue and she reviewed the lot sizes in the area. N. Judge said to her knowledge most neighbors supported the project and as such she is supportive of the proposal.

Mark Mello

M. Mello said he considered buying the lot and the abutter was given the first opportunity to purchase the lot. M. Mello said the main concern is people who parking in front of the lot who may lose parking. M. Mello said the proposal seems reasonable and fits within the neighborhood.

Speaking in Opposition:

Sherri O'Connor-Barboza, 20 Newell Street

S. O'Connor-Barboza said petitions were presented today and asked if the petitions could be read. V. Pech said they would be read into the record. S. O'Connor-Barboza said neighbors and nearby storeowners are opposed to the project. S. O'Connor-Barboza said nearby businesses have limited parking. S. O'Connor-Barboza said the major concern is parking. S. O'Connor-Barboza said the parcels were divided when the lot was sold which made her property require a Variance. S. O'Connor-Barboza said the home does not fit in the neighborhood. S. O'Connor-Barboza expressed concern about trees being on the property lines and said water drains onto the lot. S. O'Connor-Barboza said their lot size was small because there's an existing garage partially on the lot. S. O'Connor-Barboza expressed general opposition to the project.

S. O'Connor-Barboza said she contacted the Attorneys office to purchase the property and never heard back.

J. Geary clarified that a letter was previously sent and the offer was not worth responding to. J. Geary said the abutter has been using the lot area as her yard.

Kendra Juliano

K. Juliano said she is opposed to the project due to a lack of parking and said it doesn't fit with the community.

Discussion:

V. Pech read the letter of support and letter of opposition into the record.

J. Geary said the main concern appears to be parking and noted that the applicant is providing sufficient off-street parking. J. Geary said most trees are on the edges of the lot and will remain intact, and said they will be adding 7 trees. J. Geary said the home fits nicely in the neighborhood and is in line with the character of the street.

G. Procope asked about the engineering comments and concerns about the location of the proposed trees and fence. J. Geary said any fence installed on the lot would be installed entirely on the lot. M. Hamor said the fence will be entirely on the lot as well as the proposed trees. J. Geary said they would comply with any engineering concerns.

G. Procope said the plan looks plausible and said he does not believe the development impedes on parking. G. Procope said the proposal does fit into the neighborhood, and he expressed support for the proposal. G. Procope said the opposition doesn't appear to be based on any of the requested variances.

S. Callahan said the applicant will need a new site plan since there appears to be an encroachment on the garage. M. Hamor said that the fence will go up to the garage and the garage is encroaching the property line. J. Geary said the owner has not enforced the encroachment and they do not intend to. S. Callahan asked about the proposed trees, M. Hamor clarified the types of trees proposed to be planted.

S. Callahan asked whether a fence was proposed for the 20 Newell Street property line. M. Hamor said there was no proposed fencing. S. Callahan said he understands parking concerns, but the parking is provided. S. Callahan said the plans are restrained. S. Callahan said the property is bordering the TMU zone where the proposed lot size would be adequate. S. Callahan said he believes the applicant meets the criteria for a hardship and the project provides a public good, and the intent of zoning is met.

T. Hovey said his concerns with the Engineering comments were addressed. T. Hovey said the side abutting 20 Newell Street meets the side yard setback and the relief is only sought on the other side. T. Hovey asked about the abutting property to the left, M. Hamor said the one bay garage is what makes the proposal require a Variance for the side yard setback. T. Hovey said the property meets the parking requirement and they cannot take parking into consideration since the requirement is met. M. Hamor said the intent of the garage on the left was to be nearer to the other property's parking area. T. Hovey said he does not have any issues with the proposal.

M. Briere said the plan does not derogate from the intent of zoning, and said the character of the neighborhood may be enhanced by the proposal. M. Briere said he believes the abutters concerns have been addressed more than adequately, and approving the petition would be in line with the Boards prior approvals.

V. Pech said he supports the petition. V. Pech said the proposal meets the intent of zoning and fits within the neighborhood. V. Pech said a single-family is in line with the neighborhood's character and noted asking for a two-family would be harder. V. Pech said a single-family fits in nicely.

V. Pech asked if the applicant is amenable to the Engineering Department comments as conditions. J. Geary agreed.

Motion:

S. Callahan motioned to approve the Variances with the following condition:

(1) The applicant shall comply with all Engineering Department comments.

M. Briere seconded the motion. The motion passed unanimously, (5-0).

III. Other Business

Variance Extension Request: 733-735 Broadway Street

Boston Capital Development, LLC has applied to the Lowell Zoning Board of Appeals seeking a Variance Extension for the proposed (52) unit affordable housing development. The proposal received Variance approval in December 21, 2021. The proposed 6 month extension would extend the Variance approval to June 21, 2023.

M. Briere recused himself from the petition.

On Behalf:

William Martin, Applicant's Representative

W. Martin explained the previously approved proposal at 733-735 Broadway Street. W. Martin said the reason for the extension is that they are working with DHCD on financing which is a long process, but they have received a favorable reception. W. Martin noted the City has committed HOME funds to the project.

Discussion:

S. Callahan asked about the status of the previous conditions. S. Callahan asked about the landscaping plan. W. Martin said one was submitted but it will be updated for DPD approval.

T. Hovey said he had no questions.

G. Procope asked about the estimated start date. W. Martin said it is expected they will get financing in spring with construction beginning in summer 2023.

V. Pech expressed support for the extension and project as a whole.

Motion:

S. Callahan motioned, and G. Procope seconded the motion to extend the Variance approval 6 months to June 21, 2023. The motion passed unanimously, (4-0).

Minutes for Approval:

11/28/2022 Meeting Minutes

S. Callahan motioned, and G. Procope seconded the motion to approve the meeting minutes. The motion passed unanimously, (5-0).

S. Callahan motioned to adjourn, seconded by G. Procope. The motion passed unanimously, (5-0). The time was 8:04PM.